

## **CHAPTER 78: MOPEDS AND POCKET BIKES**

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## **78.01 DEFINITIONS**

### **(a) MOPEDS**

A moped shall mean any two (2) or three (3) wheeled vehicle that is propelled by an internal combustion engine or a battery powered motor, or by both, and if powered by an internal combustion engine, has the following:

- 1) An engine rating of not more than two (2) horsepower and a cylinder capacity not exceeding fifty cubic centimeters (50cc);
- 2) An automatic transmission; and
- 3) A maximum design speed of no more than twenty-five (25) miles per hour on a flat surface.”

The term “scooter” shall be interchangeable with the term “moped.”

Specifically excluded from the definition of MOPED are the following:

- i. Any two (2) or three (3) wheeled vehicle exceeding the above specifications and deemed to be a motorcycle required to be registered with and by a state bureau of motor vehicles.
- i. An electric personal assistive mobility device presently defined in Indiana Code 9-13-2-49.3.
- ii. An off-road vehicle, otherwise known as all-terrain vehicle (ATV), presently defined in Indiana Code 14-8-2-185, and required to be registered by the Department of Natural Resources under Indiana Code 14-16-1.

### **(b) POCKET BIKE**

A pocket bike, also referred to as a pocket rocket, shall mean any wheeled device ridden by a person or used as transportation, powered or assisted by any on-board power source other than the rider’s own physical efforts that has a handlebar height of 30 inches or less, measured from the highest point of the handlebar, or a seat height of 24 inches or less, as measured from the highest point of the horizontal seat surface actually designed to bear the weight of the rider.

Specifically excluded from the definition of POCKET BIKE are the following:

- i. Any two (2) or three (3) wheeled vehicle deemed to be a motorcycle required to be registered with and by a state bureau of motor vehicles.
- ii. An electric personal assistive mobility device presently defined in Indiana Code 9-13-2-49.3.
- iii. An off-road vehicle, otherwise known as all-terrain vehicle (ATV), presently defined in Indiana Code 14-8-2-185, and required to be registered by the Department of Natural Resources under Indiana Code 14-16-1.

(c) ROADWAY

A roadway shall mean any highway, road, public way, street, or alley and shall include any street designated as a parkway, boulevard, place, avenue, or other similar designation, all of which are within the City of Richmond corporate limits.

(d) Terms used in this Chapter not specifically defined shall have the meanings as set forth in the Uniform Act regulating traffic on highways, Indiana Code, § 9-13, et seq.

**78.02 EFFECT OF CHAPTER**

(a) It is a violation for any person to do any act forbidden or fail to perform any act required in this Chapter. This Chapter shall apply to City of Richmond residents and shall apply to non-residents who operate mopeds or pocket bikes within the City of Richmond corporate limits. An operator who resides outside the corporate limits of the City of Richmond in Wayne County, or who resides in a county that borders Wayne County, who operates his or her moped in the City of Richmond under a valid registration as required by the operator's jurisdiction of residence shall not be required to have his or her moped registered with the City of Richmond, provided valid proof of registration is given and the operator has on his or her person proper identification as required by state law.

(b) The parent or guardian of any child under the age of 18 shall not authorize or knowingly permit any child or ward to violate any of the provisions of this Chapter.

(c) This Chapter is applicable to mopeds and pocket bikes and shall apply whenever a moped or pocket bike is operated on any and all roadways, streets, alleys, sidewalks, and public ways within the City or on any path set aside for the exclusive use of mopeds within the City of Richmond, subject to those exceptions or prohibitions stated herein.

**78.03 APPLICATION OF STATE TRAFFIC LAWS AND OBEDIENCE TO TRAFFIC DEVICES**

(a) Every person riding a moped on a roadway in the City of Richmond shall be subject to all of the duties applicable to the driver or operator of a vehicle by the laws of this state declaring sections of the road applicable to vehicles or by the traffic ordinances of this city applicable to the driver of a vehicle, in addition to special regulations in this Chapter and except as to those provisions of laws and ordinances which by their nature can have no application. Any person disobeying the traffic control devices or signs, or violating Indiana Statutes while operating a moped shall receive a state citation.

(b) A moped may not be operated:

- (1) By a person less than fifteen (15) years of age; or
- (2) By a person who has not obtained a state-issued identification card, learner's permit, or operator's license; or
- (3) On an interstate highway or a sidewalk; or
- (4) At a speed greater than twenty-five (25) miles per hour.

(c) A police officer having probable cause to believe a person has violated subsection (b)(1) or subsection (b)(2) above may immediately impound the moped as evidence and hold it until a judge resolves any enforcement action filed. If no action has been filed in court to enforce the violation of this Section, or if there is proof that the fine has been paid, or unless proof is provided that no violation has occurred, the Police Department shall allow the owner to retrieve the moped bicycle within 45 days of its seizure.

#### **78.04 ALTERATION RESTRICTIONS**

(a) The owner, if 18 years or older, or the parent or guardian of a minor, who is the owner of a moped shall not alter or allow the alteration of the OEM exhaust system which permits loud exhaust.

(b) An owner, if 18 years or older, or the parent or guardian of a minor, who owns a moped with an engine that has been manufactured, converted, modified, or altered to the degree that the moped qualifies as a motorcycle under Indiana Code (where the engine rating exceeds more than two (2) horsepower, the cylinder capacity exceeds more than fifty cubic centimeters (50 cc), or the maximum design speed exceeds twenty-five (25) miles per hour on a flat surface) shall be required to:

- i. properly register, license, and insure said vehicle as a motorcycle pursuant to state law (presently Indiana Code 9-29-5) or shall be required to properly register, license and insure said vehicle as a privately assembled vehicle pursuant to state law (presently Indiana Code 9-17-4); and
- ii. shall be required to hold a state-issued motorcycle operator's license, learner's permit, or endorsement pursuant to state law (presently Indiana Code 9-24-8).

#### **78.05 OPERATION, PASSENGERS, SAFETY, AND PARKING**

(a) Every person operating a moped on a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons operating mopeds on a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of mopeds.

(c) No moped shall be operated on a sidewalk or a railroad right-of-way.

(d) No moped shall be operated on another's private property, unless the express written consent has been obtained from the owner of the real estate or unless written notice has been posted on the private real estate.

(e) No person shall operate a moped in a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

(f) A person operating a moped shall not ride other than astride a permanent and regular seat attached thereto. A passenger on a moped shall not ride other than astride a

permanent and regular seat attached thereto. All persons operating or riding as a passenger must be able to keep his or her feet firmly on the foot boards or foot pegs while sitting comfortably on the seat or saddle.

(g) No moped shall be used to carry more persons at one time than the number for which it is designed and equipped, as designed with an additional set of foot boards or foot pegs.

(h) No moped shall be used to carry a child under the age of fifteen (15) years unless the operator is the legal guardian or has written permission of the legal guardian. No passenger shall be permitted to ride in front of the operator. A police officer having probable cause to believe a person has violated this sub-section may immediately impound the moped as evidence and hold it until a judge resolves any enforcement action filed. If no action has been filed in court to enforce the violation of this Section, or if there is proof that the fine has been paid, or unless proof is provided that no violation has occurred, the Police Department shall allow the owner to retrieve the moped within 45 days of its seizure.

(i) No person shall operate a moped at a speed that is greater than reasonable and prudent under the conditions then existing. In no case shall a person operate a moped at a speed greater than 25 mph. In the event the speed of a moped shall cause excess traffic of two (2) or more vehicles to be backed up behind the moped, the moped operator shall pull over and allow the traffic to pass.

(j) The operator of a moped emerging from an alley, driveway, or building shall on approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and on entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

(k) No person shall propel or operate a moped in any unsafe manner, including, but not limited to weaving or swerving over the road, cutting through traffic, excessive lane changes, following other vehicles too closely, excessive or dangerous acceleration, or jumping curbs or speed-bumps.

(l) All wheels of all mopeds must be on the surface being ridden upon at all times such moped is in operation.

(m) Persons operating mopeds shall not ride more than two (2) mopeds abreast and shall pull over and allow traffic to pass in the event two (2) or more vehicles are backed up behind the mopeds.

(n) No person operating a moped shall carry any package, bundle, or article which prevents the rider from keeping all hands on the handlebars.

(o) No person shall park a moped on a street other than on the roadway against the curb or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

#### **78.06 MOPED REGISTRATION AND INSPECTION**

(a) The owner, if 18 years or older, or the parent or guardian of a minor who is the owner, of a moped, who resides within the City shall have the moped registered with the Police

Department within ninety (90) days of the effective date of this ordinance or within 30 days after its acquisition if a change of ownership occurs.

(b) These provisions shall apply any time there is a change of ownership, including those instances when the moped has been registered to the previous owner.

(c) Registration shall include the imprinting, stamping, or otherwise placing of a registration number on each moped and the keeping of appropriate records by the Police Department as to identification of the mopeds and their ownership. An initial registration fee of \$35.00 per moped shall be charged when the new owner registers each moped, and thereafter an annual fee of \$15.00 per moped per year shall be charged to the owner for registration and inspection.

(d) The Captain of the Richmond Police Department Traffic Division, or his or her designee, shall inspect each moped before registering it and shall refuse to register any moped which is determined by the officer to be in unsafe mechanical condition due to:

- i. inoperative brakes;
- ii. inoperative headlights or taillights;
- iii. tires with the wear marks exposed;
- iv. non-intact or missing body panels or panels that are improperly secured;
- v. missing or damaged kickstands; or
- vi. unsecured or improperly secured seats or saddles;

or which is determined by the officer to be a moped that has been altered to the degree that it qualifies as a motorcycle that is required by state law to be registered with the Bureau of Motor Vehicles.

(e) The operator of any moped that does not have a City registration designation pursuant to subsection (c) above displayed on the moped, or a motorcycle license plate issued by a state Bureau of Motor Vehicle displayed on the moped, may be stopped by a Richmond Police Officer to determine compliance with state laws or Richmond City Code.

#### **78.07 EQUIPMENT AND PROPER IDENTIFICATION**

(a) Every moped when in use at night shall be equipped with a front lamp which shall emit a white light visible from a distance of a least 500 feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(b) A person less than eighteen (18) years of age who operates a moped or rides a moped as a passenger, on a street or highway shall wear protective headgear, and must also wear protective glasses, goggles, or a transparent face shield, as set forth in Indiana Code 9-21-11-13.

(c) Prior to operation of a moped on City roadways, a person less than eighteen (18) years of age who operates a moped shall successfully complete and obtain certification of passage from motorcycle driver education and training course approved by the City of Richmond Police Department.

(d) An adult operating a moped shall carry the identification required pursuant to the above Section 78.03 and Indiana Code 9-21-11-12 when operating the moped, and shall, when detained by a police officer, produce said identification to the police officer.

(e) A person operating a moped that has not yet been registered pursuant to Section 78.06 above shall carry either the moped registration paperwork or the dated sales receipt during the initial 30 days of ownership, and shall, when detained by a police officer, produce said paperwork and/or sales receipt to the police officer.

#### **78.08 RENTAL AGENCIES**

(a) A rental agency shall not rent or offer any moped for rent unless the moped is equipped with the lamps and other equipment required in this Chapter.

(b) A rental agency shall not rent or offer any moped for rent to anyone under the age of fifteen (15) years of age.

(c) A rental agency shall not rent or offer any moped for rent to any minor between the ages of fifteen (15) and eighteen (18) years of age unless:

- (1) the minor has identification required pursuant to the above Section 78.03 and Indiana Code 9-21-11-12; and
- (2) the minor's parent or guardian signs the rental agreement.

#### **78.09 POCKET BIKES**

(a) The use of pocket bikes is prohibited on any and all roadways, streets, alleys, sidewalks, and public ways within the City of Richmond.

(b) In addition to the above prohibition on the use of pocket bikes as set forth in subsection 78.09(a) above, any person who owns or operates a pocket bike shall also be required to comply with the entirety of this Chapter as it applies to mopeds with the exception that pocket bikes are not required to be registered. In the event any person commits a violation of the provisions of this Chapter while operating a pocket bike, that person shall be fined under the Penalty Section 78.99 for the specific violation, or shall be fined for the Indiana state violation, in addition to the penalty for operation of the prohibited pocket bike.

(c) A police officer having probable cause to believe a person has violated this Section may immediately impound the pocket bike as evidence and hold it until a judge resolves any enforcement action filed. If no action has been filed in court to enforce the violation of subsection (a) above, or if there is proof that the fine has been paid, or unless proof is provided that no violation has occurred, the Police Department shall allow the owner to retrieve the pocket bike within 45 days of its seizure.

#### **78.98 UNCONSTITUTIONALITY CLAUSE**

Should any Section, paragraph, sentence, clause or phrase of this Chapter be declared unconstitutional or invalid for any reason, the remainder of said Chapter shall not be affected thereby.

#### **78.99 PENALTY**

- (a) Any violation of state law shall result in the issuance of a state citation.
- (b) Any person violating the registration provision under Section 78.06 shall be fined \$45.00.
- (c) The parent or guardian of any person violating the underage operation provision under Section 78.03(b) shall be fined \$30.00 and the moped shall be impounded in accordance with Section 78.02.
- (d) Any person violating the pocket bike prohibition of Section 78.09 shall be fined \$100.00 and the pocket bike shall be impounded in accordance with Section 78.09. Any person's second, and each subsequent, violation of Section 78.09 shall be fined \$125.00 and the pocket bike shall be impounded in accordance with Section 78.09.
- (e) Any person using a moped and found to be in violation of transporting or carrying a child below the age of 15 years in violation of Section 78.05(g) shall be fined \$100.00 and the moped shall be impounded in accordance with Section 78.05. Any person's second, and each subsequent, violation of Section 78.05(g) shall be fined \$125.00 and the moped shall be impounded in accordance with Section 78.05. The parent or guardian of a minor passenger below the age of 15 years discovered to be in violation of Section 78.05(g) shall be fined \$100.00. The parent or guardian of a minor passenger below the age of 15 years discovered to have violated Section 78.05(g) shall be fined \$125.00 for the minor passenger's second and each subsequent offense.
- (f) It shall be the duty of the police officers of the City to issue tickets for violations of this Chapter. The tickets shall include the name of the owner or operator if 18 years or older, or the parent or guardian of a minor who is the owner, operator, or passenger of a moped, his or her address, the Section number of this Chapter which was violated or the violation number shown on the reverse side of the ticket, and the date, time and place of the violation.
- (g) All fines imposed by this Chapter shall be paid to the Ordinance Violation Clerk.
- (h) Any fine not paid within 14 days of the date shown on the ticket shall be doubled.
- (i) Failure to pay a fine within 30 days of the date shown on the ticket shall result in an enforcement action being filed in court.

This Ordinance shall be in full force and effect on **May 1, 2010**.